

REMARKSStatus of the Claims

Claims 21-37 are pending in the present application. Claims 35 and 36 have been amended and new Claim 38 has been added by this amendment.

Claims 35 and 37

Claims 35 and 37 have been rejected under 35 U.S.C. 103 over Ohkawa '218 in view of Small '739. This rejection is respectfully traversed.

Claim 35 has been amended has been amended at lines 11-12 "for ~~dithering~~scanning said light beam over an angle in a second scan plane generally perpendicular" to somewhat broaden these limitations; at line 20 to delete reference to "weigh platter" for simplifying the claim structure; and at line 23 to correct a clerical error changing "a" to --said--.

Claim 35 includes the limitations "a primary scanning mirror" and "a secondary scanning mechanism." Ohkawa '218 only includes a single scanning mechanism, namely polygon mirror 25. The mirror systems 26 and 27 in Ohkawa '218 are merely pattern mirrors (i.e. they are not scanning mirrors and do not comprise a scanning mechanism). By contrast in Claim 35 the secondary

scanning mechanism is "disposed in said housing and positioned in said beam path between said light source and said primary scanning mirror for dithering said light beam over an angle in a second scan plane perpendicular to said first scan plane." Thus a prima facie case of obviousness is not made by Ohkawa '218 with respect to these limitations.

Further, Claim 35 includes the limitation

a controller in communication with said weigh scale, wherein said controller selectively activates or deactivates a selected one of said primary scanning mirror and said secondary scanning mechanism depending upon whether an object is detected as being weighed on said weigh scale.

Thus depending upon whether an item is detected on the weigh scale, this controller activates or deactivates a selected one of the scanning mechanisms; so in operation either both scanning mechanisms are operative or only one of the two mechanisms is operative depending upon whether an item is detected on the weigh scale. By contrast Small '739 only determines to turn on an identification sensor mechanism depending upon whether the weight of the object on the weigh sensor is within a pre-selected range. Thus Small '739 does not control two scanning mechanisms, and thus can provide no suggestion for controlling

how many of the scanning mechanisms should be activated depending upon whether an item is detected on the weigh scale.

Therefore there are several elements not present in either Ohkawa '218 or Small '739, so a prima facie case of obviousness cannot be made as to Claim 35.

Claim 37 should also be allowable in part as depending upon an allowable base claim.

Therefore it is submitted Claims 35 and 37 are non-obvious and allowable over Ohkawa '218 and Small '739.

#### Terminal Disclaimer

Claims 21-34 and 36 have been rejected under obviousness-type double patenting over U.S. Patent No. 6,585,161. A terminal disclaimer is filed herewith

Claim 36 has been rewritten in independent form. It is noted that Claim 36 has been amended at lines 11-12, 20 and 23 in similar fashion as Claim 35. Thus it is submitted that Claims 21-34 and 36 should be allowable.

#### New Claim 38

New Claim 38 has been added depending on Claim 35 and should also be allowable for reasons set forth above with

respect to that claim. In addition, Claim 38 includes the limitations


wherein said controller activates said primary scanning mirror to be operative during a first mode of operation and upon detection of the object being weighed on said weigh scale, said controller also activates said secondary scanning mechanism to be operative in addition to said primary scanning mirror. Thus in a preferred application by way of example, during a first mode (e.g. "normal" scanning operation) only the primary scanning mirror is operative, but upon detection of the object on the weigh scale, the secondary scanning mechanism is activated and also operative. By contrast, Ohkawa '218 has only one scanning mechanism and Small '739 activates its one and only detection mechanism when the weight of the object on the weigh sensor is within a pre-selected range.

Conclusion

Therefore it is submitted that Claims 21-38 are allowable  
and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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